

**MINUTES
of the
SECOND MEETING
of the
LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE**

**July 1, 2013
University of New Mexico (UNM) West Campus
Room 2170, 2600 College Boulevard NE
Rio Rancho**

**July 2, 2013
North Campus, Room 2112
Domenici Center for Health Sciences Education
UNM
1001 Stanford NE, Albuquerque**

**July 3, 2013
ABQ Health Partners
Auditorium, 5400 Gibson Boulevard SE
Albuquerque**

The second meeting of the Legislative Health and Human Services Committee (LHHS) was called to order by Representative James Roger Madalena, chair, at approximately 8:45 a.m. on Monday, July 1, 2013, at UNM West in Rio Rancho.

Present

Rep. James Roger Madalena, Chair
Sen. Gerald Ortiz y Pino, Vice Chair
Rep. Nora Espinoza
Rep. Doreen Y. Gallegos
Sen. Gay G. Kernan
Sen. Mark Moores
Sen. Benny Shendo, Jr.

Absent

Rep. Terry H. McMillan

Advisory Members

Rep. Phillip M. Archuleta
Sen. Sue Wilson Beffort
Sen. Craig W. Brandt (7/2, 7/3)
Sen. Jacob R. Candelaria
Rep. Nathan "Nate" Cote (7/3)
Rep. Stephen Easley
Rep. Miguel P. Garcia
Sen. Daniel A. Ivey-Soto (7/2, 7/3)
Rep. Sandra D. Jeff (7/3)

Sen. Linda M. Lopez
Sen. Cisco McSorley
Sen. Bill B. O'Neill
Rep. Paul A. Pacheco
Sen. Mary Kay Papen
Sen. Nancy Rodriguez
Rep. Edward C. Sandoval
Sen. William P. Soules
Rep. Elizabeth "Liz" Thomson

Sen. Lisa A. Torracco

Sen. Sander Rue

(Attendance dates are noted for those members not present for the entire meeting.)

Staff

Michael Hely, Staff Attorney, Legislative Council Service (LCS)

Shawn Mathis, Staff Attorney, LCS

Abby Wolberg, Legal Intern, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

Monday, July 1

Welcome and Introductions

Representative Madalena welcomed everyone to the meeting and invited the committee members and staff to introduce themselves.

Welcome and Introduction to the UNM West Campus

Elizabeth Miller, Ed.D., interim executive director and director of outreach, UNM West Campus, explained that her new title is director of outreach and community affairs. She introduced Dr. Wynn Goering, who has recently been appointed the chief executive officer (CEO) of UNM West; Diana Gourlay, building manager; and Reinaldo Garcia, Ed.D., director of educational services. The new UNM West building is a result of a series of partnerships with the city, the county and the State Land Office. She briefly reviewed the programming and degrees offered.

Representative Madalena recognized Rio Rancho City Manager Keith Riesberg, who welcomed the committee members on behalf of Mayor Tom Swisstack. Representative Madalena also recognized Sandoval County Commission Chair Darryl Madalena.

Several committee members addressed questions to Dr. Goering.

Dr. Goering explained that the building was funded by a gross receipts tax and that the mill levy is for operations of the medical center. The population of students is approximately 80% Anglo, which reflects the latest demographics of Rio Rancho.

As background, Dr. Goering has been in New Mexico for 16 years and was dean of a small college in Kansas. He enrolled in the Anderson School of Business for his master of

business administration and went to UNM soon after. He worked at UNM's Taos and Gallup branches.

Liver Transplant Feasibility Study

Dudley Byerley, citizen advocate, and Julio C. Sokolich, M.D., New Mexico Surgical Associates, gave a presentation on a liver transplant feasibility study. Speaking from his proposal for the establishment of a multi-organ transplant program for New Mexico residents, Dr. Sokolich stated that New Mexico is one of 12 states without an active multi-organ transplant program. He reviewed the survival rate of transplant recipients. At present, patients are sent out of the state for transplants, and there is a potential to do 40 to 45 transplants a year in New Mexico. Most transplants lose money for a hospital, but liver transplants generate resources for all of the hospitals and help the entire community with opportunity to do research.

The transplant institute would be private and work with all of the major institutions in New Mexico, which at present do not collaborate. The initial investment for such an institute for in Louisiana was \$5 million, which could be recovered in less than five years. The feasibility study is close to completion and needs the support from the legislature to move forward. Dr. Sokolich has met with the Department of Health (DOH) and other institutions to pursue this option for the state.

A memorial for creation of a New Mexico Liver Transplant Institute was introduced and passed during the 2013 legislative session. It requested that the DOH and UNM do a feasibility study and develop a memorandum of understanding (MOU) with other health care providers in the state. Staff will send a report of the funding recommendations to the committee members.

Liver Transplant Facility Feasibility Study — DOH Efforts

Winona Stoltzfus, M.D., medical director, Health Systems Bureau, DOH, Steve McKernan, CEO, UNM Hospital (UNMH), and Pamela Demarest, executive director, Medical Surgical Services, UNMH, have a presentation on DOH efforts toward the liver transplant facility feasibility study. Mr. McKernan stated that an independent consultant will be hired to make recommendations for a feasibility study regarding a liver transplant facility and that information will be made available to the LHHS. The request for information for the consultant is being drafted and it is expected that it will take four to six months to complete the process and receive a recommendation from the consultant. A discussion for funding the study will follow.

Committee members requested a definitive answer as to whether UNMH is in favor of any kind of liver transplant program. In response, Mr. McKernan explained there were many reasons that UNMH discontinued its transplant program and so it is proceeding with caution with the liver transplant facility feasibility study. Preliminary meetings occurred during the establishment of the memorial, which did not provide funding for the study. This led the committee to decide it needed outside expertise to assist in the process. Mr. McKernan said he will keep the LCS aware of how UNMH is proceeding.

Committee members stressed the importance of having the study done by competent people, including local hospitals that currently have kidney transplant programs.

Mr. Byerley commented that getting the study done depends on obtaining funds for it.

Health Insurance Cooperative Plan

Martin Hickey, M.D., CEO, New Mexico Health Connections (NMHC), explained that the health insurance cooperative plan is a not-for-profit, member-governed health plan to form a value-based health care system. It is sponsored by the federal Centers for Medicare and Medicaid Services (CMS) with loan money that will be repaid, and the program is expected to be ready by October 1, 2013. An objective is to help rebuild the health care infrastructure in the state using the same principles applied at Kaiser and Geisinger medical centers. The hope is to change health insurance from the usual business paradigm of underwriting. The first initial audit was passed with no references or comments. The CMS brought in PricewaterhouseCoopers to audit every cooperative across the country.

During questioning from the committee, Dr. Hickey explained the following.

The cooperative is a health plan with the same rules and regulations that are required of Blue Cross Blue Shield, Presbyterian and Lovelace, and it was initiated from a grant by the federal Patient Protection and Affordable Care Act (PPACA). NMHC is one of six cooperatives awarded in the country and will focus on individuals at or below the federal poverty level and small businesses under 50 employees. Otherwise, it operates as any other insurance company in terms of transactions, with a focus on identifying sick people and getting them to community health workers and care organizations to improve health and lower cost.

There are 30 hospitals that have signed on or are close to signing. There is a specific fee schedule and three advisory committees composed of many physicians. If a physician takes on the care of a patient but the hospital is not contracted, the bulk of care is ambulatory and outpatient. NMHC works with the physicians and offers reduced or low copayments for drugs to make it easy for the patient to receive care.

Obesity is a disease that is not understood today and may be related to any number of things. Medicine is on the brink of understanding it in terms of psychological components.

The goal is to return the profits to the members and the primary care infrastructure and to make New Mexico healthier and more attractive.

Update from the New Mexico Health Insurance Exchange (NMHIX)

Dr. Hickey, member, Board of Directors, NMHIX, and Michael Nuñez, acting CEO, NMHIX, addressed the committee. The NMHIX was created to provide small employer groups and qualifying individuals with access to health insurance. So far, the board has been focused on the setup and the beginning parts of the exchange, but not yet on its long-term sustainability.

In response to questions from committee members, Dr. Hickey and Mr. Nuñez made further explanations.

The bill authorizing the exchange out of the PPACA has a large pot of money to help support state exchanges to get off the ground, but only 18 states have done so. That money is appropriated, and if it is not spent by the state, it will go away. New Mexico can ask for phase one federal money quarterly up until the end of this year and then one last time in calendar year 2014.

Project management is a standard activity in almost anything to do with information technology or any other complex project. This money is very well spent because it will guarantee that the necessary time frame is followed so that everything is done at the right time. It is a \$4.2 million contract, and six companies were evaluated through a request-for-proposal (RFP) evaluation process. The board of the New Mexico Health Insurance Alliance awarded the contract.

In reaching out and ensuring that Native Americans in remote areas are fairly treated, Native American Radio, powwows, chapter houses and newsletters will be used. Mobile units will go to rural community gathering places to do an effective job of sharing. By law, information has to be made available in different languages. The NMHIX will work hand-in-hand with the Indian Affairs Committee. Native Americans are exempt from any penalties in the PPACA, and it is in the best interest of the tribes for everybody to be enrolled. With regard to businesses, an employer with 51 employees is required to buy insurance, and it does not matter if any of the employees are covered by the Indian Health Service. If employees are covered by insurance through the employer, they are not eligible to participate in the NMHIX.

New Mexico is classified under the law as a state-based exchange, which means that it is eligible for the federal pool of money to use in starting up and it does not get paid back.

Representative Madalena accepted the correspondence from a committee member requesting potential endorsement from the committee to set goals as a matter of policy and that the goals be integrated into the plan of the operation that the NMHIX is developing. Representative Madalena put the letter on his table to bring back to the committee for further possible input and discussion. [The letter has been included in the committee members' packets.]

Primary Care by Nurse Practitioners and Certified Nurse-Midwives

Sonda Boulware, M.S.N., A.C.N.P.-B.C., president, New Mexico Nurse Practitioner Council, Randy McGuire, C.F.N.P.C., C.W.C.N., McGuire Wound and Oxtomy Center, Roswell, Elaine Brightwater, N.P., D.N.P., certified nurse-midwife, and Nancy Ridenour, Ph.D., A.P.R.N., B.C., F.A.A.N., dean of UNM College of Nursing, gave a presentation on primary care by nurse practitioners (NPs) and certified nurse-midwives (CNMs). Ms. Boulware explained that the expansion of coverage mandated by the PPACA is looming on the horizon and posed the question of who is going to care for all of the newly insured patients. Persons with health

insurance use more services than those without coverage. It is estimated that 15 million uninsured persons will secure coverage in 2014, and the number will increase by 35 million in 2016. Compounded with a growing population and aging baby boomers, access to primary care will be difficult. Despite having a specialty in cardiology, Ms. Boulware is being forced into the primary care realm due to the lack of providers in the area. Only one-fourth of medical school graduates plan careers in primary care, and by 2015, the nation will face a shortage of 62,100 physicians, of which 31,100 are primary care practitioners. She further explained reasons why there are fewer primary care physicians when the need for them is growing. Nurse practitioners in New Mexico must have at least a master's degree and must pass the national specialty certification examination and maintain at least 50 educational hours.

Mr. McGuire said he has been the owner of McGuire Family Care in Roswell since 2009. His wife joined him in family practice in 2010. As a NP, he treats everything from hypertension to diabetes, psychiatric disorders and imaging. Because of his specialty in wound care, he can do all of the imaging that primary care doctors can order from X-rays, bone scans, MRIs, CT scans, laboratory studies and evaluations. NPs have authority to consult at most hospitals. He can see a patient for years in his office as a primary care provider, but when it comes time to placing the patient in a nursing home, he has to turn the patient over to the physician that is the director of the nursing home, even though many of his patients prefer that he continue as their practitioner.

Dr. Brightwater stated that she has been a CNM since 1982 and a women's health practitioner since 1978. CNMs attend births and help the pregnant woman in labor and her family with the delivery. They take care of close to 30% of all deliveries in New Mexico and over 40% of nonsurgical or vaginal births in New Mexico, which is ahead of all other states. This committee has a history of contributing to the reputation of New Mexico as being visionary when it comes to dealing with nurse midwifery and NPs. It is important to realize that the national scope of practice for nurse midwifery includes care for women throughout their lifespans, so it is crucial to realize that CNMs are not exclusively just delivering babies.

Kristen Ostrem, UNM College of Nursing, said she is a family NP and a CNM, educated at UNM and working at a collaborative in Bernalillo. She is seeing more and more clients who are unable to access care elsewhere. It is a comprehensive practice and provides care twenty-four hours per day, seven days per week, working within the system to get people into care. She said she would appreciate the committee's support for advanced-practice nursing in the clinical setting.

Dr. Ridenour thanked the legislature for providing full advanced and independent practice for New Mexico advanced-practice nurses. In terms of work force, New Mexico is attractive to nurses from other states who like working in states where there is independent practice. There is a shortage of primary care providers and personnel to see the patients who need to be seen. There is a shortage of 236 NPs in New Mexico, and the state's limited production of NPs and physician assistants (PAs) will inhibit its ability to expand its primary care work force. UNM is the only provider in the state that produces PAs, family NPs, CNMs and acute-care NPs. She

read from the handout and presentation containing current and future statistics for the primary care work force. There is a need to increase NP and CNM student enrollment and graduation, and recurring funding will be requested to increase enrollment and additional master-level students each year.

The committee members asked several questions regarding how to provide health care in the future, the cost of the education and the fact that there is not enough faculty to educate nurses. The presenters explained that St. Francis also produces NPs. It is estimated that the cost to educate NPs at UNM is approximately \$75,000 per student, but the cost for tuition to the student is less than that. At St. Francis, the cost to the student is approximately \$30,000 a year. New Mexico State University (NMSU) produces psychiatric NPs. UNM and NMSU have an agreement not to compete, and they share resources to assist students at each school to get the degrees they are seeking.

Interstate and Interregional Medical Licensure Compacts

Lynn S. Hart, executive director, New Mexico Medical Board, and C. Grant LaFarge, M.D., medical director, New Mexico Medical Board, addressed the committee on interstate and interregional medical licensure compacts. Dr. LaFarge gave an update on the status of interstate and interregional compacts as they apply to New Mexico medical licensing. At the April meeting of the Federation of State Medical Boards, a resolution was passed regarding the concept of a compact that could be used to facilitate interstate licensing in the practice of medicine across state lines and particularly telemedicine, which is a rapidly developing methodology for increasing access to medical care. Interstate compacts are an effective tool for structuring interstate relationships, regulating private activity across state lines and furnishing government services on a regional basis. Interstate compacts offer an alternative to federal programs and regulation and are particularly apt for matters traditionally addressed by states, such as law enforcement and public health, safety and welfare. Agreements between states include items such as unrestricted licensure in the home state, approved medical residency training, passage of nationally approved examinations, board certification, freedom from disciplinary license stipulations and criminal background investigations. Once those details are forged, the states come together to form a license that would be a home state license where the physician practices most of the time and a compact license that would apply to the other states that are part of the compact.

Ms. Hart expressed her pride that the state is looking for ways to make it easier to streamline and coordinate with other states. It is common sense to look at the commonality among Colorado, Texas and Arizona and to do licensure applications from California. When a doctor is licensed in New Mexico, the file is made available to other states, which is not always reciprocal. There could be a national database that all practitioners and boards are required to report to if there is disciplinary action.

Representative Madalena acknowledged and introduced Sandoval County Commissioner Don Leonard.

Public Comment

Richard Mason, League of Women Voters of New Mexico, read from his handout regarding the NMHIX Act covering the cost of the navigators. Because federal money is finitely provided, he said it would be wise for the exchange to accumulate funds from the beginning so as to offset losses in the future. Accumulating funds to pay for future losses is something that should be in a long-term budget. Otherwise, the exchange might have to come back to the legislature for funding or cut back on services offered to New Mexicans.

Tuesday, July 2

Welcome and Introductions

Representative Madalena reconvened the meeting at 8:45 a.m. and invited the committee members and staff to introduce themselves.

Welcome from the UNM Health Sciences Center (HSC)

Paul B. Roth, M.D., M.S., F.A.C.E.P., chancellor for health sciences, dean of the School of Medicine, UNM HSC, told the committee that the UNM HSC is very focused on its ability to improve the health and well-being of the residents of New Mexico. It was disturbing to hear New Mexico's standing in the countrywide statistics presented on children's health. The UNM HSC looks at teenage deaths, pregnancies, education, family and community, risky behaviors and immunizations, which are issues that parents, communities, tribal governments and legislative leaders can address. If one thing is done to positively affect the health of New Mexico's children, it would be to address childhood obesity. This is something that cannot be helped individually, but collectively, and as a community, significant things can be done.

The Sandoval Regional Medical Center in Rio Rancho is a part of the UNM hospital system. It is designed to be a community teaching hospital, not like the tertiary care referral center at UNMH in Albuquerque. It has been in operation for about 11 months and is still growing. The plan is to have more nursing and other allied health professional students learning in the hospital. It is a level three trauma center, intended to initially stabilize critically injured individuals and transport them to UNMH.

Vetoed Health and Human Services Legislation from the 2013 Regular Session

Mr. Hely presented a handout listing the vetoed legislation from the 2013 regular session. He reviewed the individual pieces of legislation and the executive messages relating to that legislation.

In discussion, the committee members suggested that when the LHHS is looking at its legislative proposals for next year, they be reviewed to see if there is a way to modify them or take off a sunset provision that would make them more likely to be signed by the governor.

Large Employer Health Coverage Mandate — Health and Human Services Providers

Stephen Byrd, president, Employee Benefits Division, Manuel Lujan Agencies, Karen Wells, R.N., M.P.A., New Mexico Association for Home and Hospice Care, Anna Otero-Hatanaka, executive director, Association of Developmental Disabilities Community Providers, and Linda Sechovec, executive director, New Mexico Health Care Association, gave a presentation on the large employer health coverage mandate under the PPACA.

Mr. Byrd explained that he is a consultant with the Manuel Lujan Agencies and represents over 360 employers, many of which are large employers. He consults with them pertaining to what they need to be aware of to implement their preparation of the PPACA. He spoke to the committee from the information in his handout.

Ms. Wells said she is a registered lobbyist for the advocacy of home and hospice care services in New Mexico. The providers are all reimbursed on essentially a fixed-rate basis, with limited to no opportunity to raise charges to meet the additional costs. The PPACA is very complicated. There are serious penalties that will be incurred if the act is implemented improperly. The ability of the providers to implement the act is hampered by the fact that the providers are funded through government programs. Ms. Wells reviewed her handout with a matrix that is used during the legislative session to provide information regarding the cost of the Personal Care Option (PCO) program.

Ms. Otero-Hatanaka spoke from her handout regarding the PPACA. The agencies have no idea what it will cost to comply with the PPACA. The new service system under the Developmental Disabilities Medicaid Waiver program just became effective May 1, 2013. There are hundreds of budgets or services that have not been approved, and providers and their system are in chaos trying to figure out how they will meet payroll and continue to provide existing or new services without being reimbursed because of this.

Ms. Sechovec said that until she heard the previous speakers, she had thought she was "in the weeds" and alone in the struggle that employers are facing, especially those health care providers that are reliant on working with Medicaid. She then reviewed her handout regarding the PPACA employer mandates and their estimated impact on nursing facilities. Because of the complexities of the PPACA, it is unknown how much money to ask the legislature for in the upcoming 2014 session to cover additional administration costs.

Following a question-and-answer period and some discussion, a motion was made and seconded to send a letter to the Legislative Finance Committee (LFC) on behalf of the LHHS in support of Senate Memorial 46.

Further discussion and additional information followed regarding the language in the Senate Memorial 46.

Representative Madalena requested that Mr. Hely and Ms. Wells get together and discuss suggestions made by the committee members regarding the letter.

Ms. Wells explained that the memorial as originally drafted identified only those employers who had 50 employees or more, and there was a reasonable request that the study be narrowly focused to those employers that are affected by the provision. Ms. Otero-Hatanaka said her recollection is that it is a good memorial and suggested including in the letter developmental disability and delay programs. Ms. Sechovec said she is concerned that if the LFC gets involved, it needs to pay special attention to Medicaid-funded services and the impact on large employers.

The senator who made the motion about the letter said he was very comfortable with what had just been said as an amendment to his motion. The seconder agreed to the motion as amended. It was voted upon, as amended above, and unanimously approved.

Hidalgo Medical Services (HMS) Program Accreditation by the Council for Graduate Medical Education

Tamera Ahner, workforce manager, HMS, and Derek Nelson, chief medical officer and director of the Family Medicine Residency program in Silver City, gave a presentation on the HMS program accreditation by the Council for Graduate Medical Education. Ms. Ahner reviewed her handout and explained that HMS is a nonprofit community health center in southwest New Mexico that includes Grant and Hidalgo counties. Through its work force program, HMS has been able to reach into Luna and Catron counties.

Dr. Nelson introduced himself as a family physician who grew up in a small mining town in central Arizona and was the son of a miner. In developing the health career pipeline, it is important to reach kids in the elementary and secondary school levels to get the message out that, in fact, they can consider a health career and be encouraged to think about going into a health career. Children even receive a stipend to go to the Summer Math and Science & Healthcare Academy. Studies have found that 60% to 70% of medical students and primary care residents who have experience in rural environments tend to go back to rural environments. The more students who are educated in health disciplines, the more likely that the health professional shortage in rural New Mexico will be solved.

One of the legislators expressed concern over the closing of the Roswell teaching center and questioned how to expand this regional program and get the Roswell center reopened. He suggested that the LFC write a letter to the UNM public health department to help with the Roswell residency program for general and family practitioners and to expand what the HMS is doing.

Dental Education: Dental School, Western Interstate Commission for Higher Education (WICHE)

Howard L. Bailit, M.D.M., Ph.D., professor emeritus, University of Connecticut Health Center (via "telepresence"), Senator Mark Moores, commissioner, WICHE, Jose Garcia,

commissioner, WICHE, and Patricia Anaya Sullivan, commissioner, WICHE, gave a presentation on dental education. Appearing via "telepresence" from Connecticut, Dr. Bailit noted that there are national changes taking place in the health care system. There are two basic ways a dental school can have an impact upon access to dental care disparities. The traditional approach is to educate state residents and hope they have a significant number who move to certain areas of the state. The problem with this is that most will not move to underserved areas because of disparity of income. Most low-income residents cannot afford private sector care and dental insurance, and the fees are so low that many practitioners cannot afford to see Medicaid-eligible patients. Another reason many dental students do not go into underserved areas is because they come from the suburbs and upper-middle-class families and are planning to go back to those areas for their practices. Graduates are more likely to serve lower-income residents if students are recruited from those areas. Dental students do treat indigent patients, but because of the way most dental school clinics are operated, students seldom see more than two patients. A traditional dental school will have a limited impact on access disparities.

A way to lessen these disparities is to change the clinical education model. Instead of the traditional system of dental school-owned and -operated clinics, more schools are basing a large part of their clinical education on community-based delivery systems, i.e., federally qualified health centers, hospitals and private practices.

In 2009, there was an RFP in New Mexico for a four-month project to review the feasibility of creating a dental school that would reduce access disparities. Dr. Bailit has worked on similar projects in North Carolina, Florida and Wisconsin. He cited statistics of dentists in New Mexico relating to the population.

In terms of the dental school, the dental school report calls for a class of 40 dental students with an emphasis on those with disadvantaged, rural and minority backgrounds. The school could be located in Albuquerque at UNM. He stated that NMSU does not have the infrastructure necessary to support a dental school at this time. Students will spend the first few years taking basic clinical sciences at UNM medical school and spending summers between the second and third years in intensive training in the dental clinical sciences. Students will spend approximately one-half or more of the fifth year providing care to patients under close faculty supervision. They will be assigned to hospitals and private practices throughout the state for part of the third year and most of the fourth year. Students will come back to Albuquerque for classes and rotations at the Albuquerque dental clinic. The school will expand the dental residency program with around 25 general dentistry residents. Working in partnerships, the school will build four regional dental clinics in rural areas of the state.

The UNM medical school runs a very strong B.A./M.D. program that has been successful in recruiting minority students, and this program could easily include dental students.

This proposal is a different kind of dental school that is not as capital-intensive as the traditional bricks-and-mortar dental schools around the country and has a good access-to-care

component. The executive summary with the business model is on the web and will be disseminated to the committee. This study was funded through money that former U.S. Senator Jeff Bingaman provided to the state during the stimulus package.

In response to questions from the committee members, Dr. Bailit explained that a traditional dental school generally is separate from a medical school and is an educational laboratory where the student sees relatively few patients. This model would require a major investment in facilities and higher operating costs. What is being proposed is that the clinical education for the students would take place in federally qualified health centers and hospitals, and, in some states, students rotate through private practices. In this way, students get a lot more experience and the cost of education dramatically declines because the delivery system takes off one-half of the cost of a faculty member's salary. New Mexico has one of the most extensive networks of federally qualified health centers in rural areas of any state in the country.

Dr. Wendell, a graduate of NMSU and a veterinarian member of WICHE, is on the state veterinary board and has practiced in New Mexico for 27 years. In the 1950s, western states formed a collaboration to allow them to send students to each other's state schools. The goal was to aggregate demand for higher education, which made a lot of sense when western states were less populated. This program allows students to take advantage of reduced tuition programs for graduate school, dentistry and veterinary medicine. Undergraduates can go to schools in other states for much less than what in-state tuition would be. This allows for more diversity in the higher education program. Dr. Wendell reviewed his handout regarding the professional services educational program. New Mexico students are required to return to the state when they graduate to practice in New Mexico.

Building a veterinary school is not practical for New Mexico. The WICHE program offers students the opportunity to reduce their debt load and return to work in rural New Mexico. At present, there are three participating schools in Colorado, Oregon and Washington, with two additional colleges likely to be partners by the fall of 2014, the University of California-Davis and Western University of Health Sciences. New Mexico pays each student a support fee toward tuition. Colorado State University accepts the most New Mexico students, but it also has the highest out-of-state tuition of all of the other veterinary colleges in the U.S. Many graduates do not have the option to return to New Mexico because of the low average starting salary in the state and because their average debt load is close to \$200,000. The competition from the two additional colleges may lower tuition costs.

The WICHE program allows New Mexico students to come back to New Mexico and offers them the opportunity to reduce their debt load so they can take jobs in rural areas. Most graduates come back and work for established veterinary practices, many of which try to find new graduates to take under their wing and groom them for eventual practice takeover.

Donning his hat as a WICHE commissioner, Senator Moores said that the WICHE program is specifically designed for states that do not have the professional schools. If and when

a dental school is built in New Mexico, its students would not be eligible for WICHE for the dentistry component, but the dental school would be open to taking WICHE students from other states. His priority is to fully fund WICHE for next year. Many graduates come back to New Mexico for their fifth year of education with the dental residency program that was created by the legislature. They do rotations around the state, and that counts toward one of their three years of obligation.

Community Health Specialists Program

Francisco Ronquillo, health extension officer, Office for Community Health, UNM HSC, and Arthur Kaufman, M.D., vice chancellor for community health; director, Office for Community Health, UNM HSC, gave a presentation on the community health specialists program. Mr. Ronquillo explained that he has been talking with immigrants with health backgrounds. At present, he knows of 43 people who are medical doctors, nurses, dentists, an immunologist and an epidemiologist but who cannot practice in the U.S. because their certification and credentials are not recognized. These people have the talent, skills, desire and interest to work in their fields, rather than in restaurant and maintenance positions. They are an invaluable human resource, but the question is how to integrate these health professionals into the health care field. His hope is that UNM HSC can help to utilize these medical experts in communities that lack these types of health professionals. The suggestion is that a joint memorial could be introduced that puts together different health partners to help develop a pathway for these health advocates and educators.

In response to further questions, Mr. Ronquillo explained that California applies for a federal grant for which New Mexico could apply. While many foreign medical schools are recognized, no Latin American medical school graduates are recognized to practice in the U.S. Washington, California and Florida have projects where they put international medical graduate professionals through two- and three-year programs so they can pass their boards and go to work in their professions. He is proposing a more expeditious program where these people would come in as health promotion specialists.

It was suggested by several committee members to look at changing the statutes and have a step in a program whereby a licensed doctor from Latin America could fit as a support paraprofessional until the doctor is credentialed. Perhaps a work group could be organized to open up some of the statutes for midwives, NPs and PAs to see what the qualifications are so that these highly educated people could be immediately qualified to step into some of those positions. The presenters asked the LHHS to make a recommendation during this interim and have Mr. Hely and Ms. Mathis research this type of gateway.

Center for Health Workforce Analysis

Richard Larson, M.D., Ph.D., executive vice chancellor, vice chancellor for research, UNM HSC, and Dr. Kaufman gave a presentation on the Center for Health Workforce Analysis (CHWA) at UNM HSC. Dr. Kaufman said he has been working with Dr. Larson on the establishment and implementation of the CHWA instituted by HB 19 that was passed last year.

He reported on status, findings and outcomes. The work force data were moved to be under the supervision of Dr. Roth at UNM HSC and housed in Dr. Larson's computer servers. Staff has been hired and mobilized in the office to work on this. Dr. Kaufman reviewed the handout that showed the categories of activity and sample electronic survey results. He pointed out the importance of having a diverse work force in the state to help with the number of people who can be seen.

As a way to attract health professionals to areas such as Hobbs, agreements are made to give students free housing. After just a few years, family physicians and PAs have been hired by setting up such a model. To continue to decentralize and create hubs, programs are being developed in places such as Taos, Santa Fe and Santa Rosa. Developing an interdisciplinary team will be one of the next steps in transforming health care that will have a bigger impact on the health of the communities.

Dr. Larson reemphasized the importance of what a milestone HB 19 represented for the state and the need to go forward with the program. He said an academic health center such as UNM HSC is different from other health care providers, such as Presbyterian. UNM HSC not only is delivering clinical care but is also producing a work force for all of New Mexico. UNM HSC wants to match resources and training of health care professionals to what the state needs, and HB 19 represented the first time to collect solid data to assess that by linking data to registration licensure data and have it semi-automated to the survey data, which is downloaded into the database to get detailed data county by county, who is practicing there and the nature of their practice. Following national metrics of how many providers should be in this sort of situation and how many the county actually needs will allow UNM HSC to think of how many health care providers are needed. The logistics of accessing and storing these analyses will require sustained funding.

When pharmacists renew their licenses, there is not a standard survey they fill out, and so data on the nature of their practice cannot be obtained. The Board of Pharmacy has agreed to include a standard survey as part of its renewal process so it will ultimately be able to collect pharmacy data.

A committee member suggested that David Roddy, head of New Mexico Primary Healthcare Association (NMPHA), be on the New Mexico Health Workforce Committee. Since the committee members have such comprehensive backgrounds, the member also asked that a recommendation be made about the foreign-educated health care professionals to put them into areas of health care.

It was pointed out that many of the providers who are serving Native Americans are employees of the federal government but do not have a New Mexico license. Dr. Kaufman agreed that it is a problem, but a team of researchers is working to determine the federal Indian Health Service and military employees who will not be captured by the survey and how many came from and were trained in New Mexico.

In response to a concern about the personal data in the survey and who would have access to data, Dr. Kaufman explained that the CHWA has secured servers with protective firewalls, and from a security standpoint, the data are as secure as possible. The state receives the data and simply transfers data to the committee under an MOU that allows access to data.

Representative Madalena welcomed and introduced former Senator Dede Feldman.

UNM HSC Health Care Work Force Education Programs

Dr. Roth explained that premedical education occurs at the baccalaureate level and is undergraduate education. The next step leading to the practice of medicine is medical education, called undergraduate medical education, which is four years of medical school after the four years of the bachelor's degree. The next step is training in a residency program that can be anywhere from three to seven more years, called graduate medical education. Finally, when a graduate is done with residency training and wants to set up a practice, there is an incredible array of requirements and licensure that mandates continuing medical education to sustain certification in any particular area and maintain licensure. This is what is spoken of as the continuum of medical education.

Using a PowerPoint printout, Dr. Roth's presentation focused on doctors and dentists and addressed the B.A./M.D. program and the proposal for a B.A./D.D.S. program. He gave a general overview of the GME residency program and the primary care physician conditional tuition waiver. Dr. Roth said he will not ask for funding from the legislature until he is sure that there will be a continued commitment to annual and incremental permanent funding for the program.

In describing the B.A./D.D.S. program, Dr. Roth described a Navajo study that showed the number-one cause for children not attending middle and secondary school on the Navajo Nation was dental problems. Many years ago, an oral health summit recommended that New Mexico needed to build its dental programs. An alternative to building a dental school and to supplement the WICHE program is the B.A./D.D.S. program, for which the UNM HSC will come to the legislature to request initial planning funds. He was not speaking against having a dental school but of recognizing economic realities and building on the success of the B.A./M.D. program. High school students would be recruited to come into a customized undergraduate experience and negotiate with an out-of-state dental school. There have been discussions with several schools that would be willing to accept these students in their dental schools. Those students would return to New Mexico to complete their residencies. This is a way to more than double the amount of students in the B.A./D.D.S. program on top of the WICHE program.

Dr. Roth said he has asked two years in a row for funding for the B.A./D.D.S. program. He has been met with sympathy and support but, given the economics in the state, he was unable to receive funding.

Vanessa K. Hawker, UNM HSC, explained that the request for fiscal year (FY) 2015 is for planning funds of \$400,000. The total projected cost for the program is \$8.1 million. The object is to help students pay for tuition to dental schools that New Mexico contracts with so the students have less debt and then they can practice in rural and underserved areas in New Mexico.

Dr. Roth said he would not ask to fund this program unless there is a strong commitment to begin the eight-to-nine-year journey it will take to fully fund it. He does not want to admit students and then not have funds to pay for their final time in college.

A committee member urged the UNM HSC to wage a tandem campaign in both houses of the legislature and go to the LFC, the House Appropriations and Finance Committees and the Senate Finance Committee.

Public Comment

Glenn Ford explained that at one time he was a civil engineer and a supervisor and manager of a multimillion-dollar program as a licensed professional engineer. Twenty years ago, he sustained a brain injury that was not diagnosed and went untreated. He lost his job, career and almost his family. Three years after he first approached the legislature, he got an attorney to advocate for him and he was able to get into post-acute care. He now does advocacy as a volunteer to help people get those services. Unfortunately, today the circumstances he went through are exactly the same and the diagnosis in the community is almost nonexistent, even if a person is lucky enough to go into the emergency department of a hospital. Brain injury is a health care issue and can become a disability resulting in prison and homelessness. However, if it is diagnosed early, treatment can be successful. Once a person hits rock bottom and has lost everything, the person could eventually get into the Medicaid waiver program and get financial support. That is more severe, but he does not qualify because his wife has continued to work. About 90% do not qualify for these programs and they are called the silent epidemic.

Katie O'Donnell said she is a community health worker with the Pathways program. While UNM is providing excellent health care in Bernalillo County and there may be future when all New Mexicans have access to health care, the people working with patients every day and observing people navigating the university health systems see a different kind of picture. The UNM Care Financial Assistance program provides excellent financial assistance for those who can qualify. However, because of an incredible disconnect among the different departments at UNMH and miscommunication and misinformation, people are being denied UNM care. This has been publicly admitted by the director of financial services, who gave information that was publicly contradicted by someone on her team. That is a major concern. Another concern is that many Bernalillo County residents do not qualify because of their documentation status, which is not always clear because of the contradictory information received. People can qualify and be offered a 45% discount on their bill, which in reality is not enough coverage. Other counties provide excellent financial services to undocumented people. She asked that the university system publicly clarify all of its policies on a monthly basis and open its services to all financially eligible Bernalillo County residents who pay tax dollars.

An audience member named Sabina stated that her husband suffered a traumatic brain injury six years ago when a microburst hit a cottonwood tree that landed on him. She related their experiences when he was not communicative and could not walk and the indifferent treatment he received in the nursing home. He was transferred to a hospital with a rehab wing for brain injury patients. She suggested that medical care facilities address better education and training for their staff in regard to the care of brain-injured people who are unable to speak for themselves.

Damian Black said that he has brain damage and pointed out how difficult it is to explain his situation to people because it is not an apparent injury and is not something an observer can see without looking at records and background. He discussed his history of brain and other injuries and how he has dealt with them.

Kathy Salazar said that she has a handicapped daughter and uses the PCO. She has been told that PCO is being discontinued. It works for her because she is the caregiver for her daughter, who has special needs and cannot go to a group home because she needs so much care. She requested that the committee keep the PCO going and not force her daughter to go into another program.

The committee members discussed the PCO, and there was a suggestion that this be further addressed by the committee. The PCO was put into place to keep low-functioning people out of nursing homes, but since the recession, the budget has been reduced. It was suggested that Ms. Salazar speak with Ms. Mathis for information on future meetings when she can speak during the public comment period.

Wednesday, July 3

Welcome and Introductions; Approval of May 30, 2013 Minutes

Representative Madalena reconvened the meeting at 8:45 a.m., welcomed everyone to the meeting and invited the committee members and staff to introduce themselves.

The minutes of the May 30, 2013 LHHS meeting were approved as submitted.

Representative Madalena stated that a quorum had been established on the first meeting day of July 1, 2013.

ABQ Health Partners — Total Care Model

Jill Klar, chief operating officer, ABQ Health Partners, welcomed the committee to ABQ Health Partners. She explained that ABQ Health Partners is on a mission and has a passion to change the way health care is delivered in New Mexico, producing higher patient outcomes, higher patient satisfaction and lower overall health care costs. She reviewed the handout that included a history of the development of ABQ Health Partners.

In response to a question from a legislator, Ms. Klar explained the relationship between ABQ Health Partners and Lovelace, which terminated in the fall of 2013. At present, ABQ Health Partners is not a contracted provider for Lovelace, although it is still working in the Lovelace facility and still takes patients there. Lovelace health plan patients cannot be seen unless their care is treated as out-of-network benefits. ABQ Health Partners can see commercial, Medicare and Medicaid patients, but it is not set up to take uninsured patients. The former Lovelace doctors are still with ABQ Health Partners. At the end of 2007, the Lovelace group and health care system decided to spin off and become completely independent.

Robert Mayer, chief information officer, ABQ Health Partners, stated that physicians at ABQ Health Partners use electronic medical records so that a patient can go anywhere in the state to any provider and access records. It is exchanging records with 11 other medical care groups through the NMHIX. This avoids duplicate testing and catches previous conditions.

Health Care Provider Covenants Not to Compete

David Johnson, Esq., Montgomery & Andrews PC, and James Martinez, M.D., president-elect, New Mexico Medical Association (NMMA), gave a presentation on health care provider covenants not to compete.

Mr. Johnson explained that he is a health care lawyer and represents health care providers. Part of his practice involves covenants not to compete, and he often finds himself on both sides of an issue. He is neither a strong proponent of covenants not to compete, nor is he on the other side; he represents both physicians and medical groups and hospitals interested in enforcing the covenants not to compete. These can also be called noncompete agreements, restrictive covenants and covenants not to compete. He described the various types of covenants not to compete that are used to protect business information, trade secrets and business plans.

Dr. Martinez told the committee that he is a physician who has practiced in Albuquerque for 22 years. He stated that the NMMA is neutral on the matter of covenants not to compete and believes the contract is between the physician and the employer group. Its members are both employees and physicians and independent physicians. The cry heard from the independent practitioners is that hospital systems have deep pockets and can buy whomever they want.

In response to a committee member asking what is expected of the legislature, Dr. Martinez said that he would like to see legislation that eliminates the noncompete covenants, even though the NMMA is neutral. The committee member said that the LHHS would need to see some sign of a large amount of support for that concept before being able to put it into legislation.

Donated Dental Services

Linda Paul, executive director, New Mexico Dental Foundation, and Larry B. Lubar, D.D.S., gave a presentation on donated medical services.

Ms. Paul explained that her organization is a 501(c)(3) nonprofit and a charitable arm of the New Mexico Dental Association (NMDA). She described the work that New Mexico dentists do each day to help change lives. Though all dentists in New Mexico provide pro bono work each week, the foundation helps dentists in an organized way to provide treatment to those who otherwise would not be able to afford care. The mission is to inspire benevolent dental outreach and promote dental health in New Mexico. She described several major programs and student opportunities. She introduced Dr. Lubar, who practiced dentistry in New Mexico for the bulk of 49 years before his retirement. He was the volunteer event chair for the first Mission of Mercy at the fairgrounds in Albuquerque in 2010. He has donated thousands of dollars of dental treatment to those in need through the foundation's donated dental services program.

Dr. Lubar gave an overview of what dentistry is like in New Mexico. He has also been president of the NMDA and served as its representative to the Medicaid advisory committee. The dentists in New Mexico are second to none and an incredible group of men and women whose first goal is to take care of their patients to the best of their ability.

Ms. Paul explained that the NMDA has received money from the state and is requesting that a legislator carry a bill asking for an additional appropriation. It has a four-year waiting list in Albuquerque for people seeking donated dental services, but it does not have funding for a case manager. A line item within the UNM budget has been in place since the inception of the program. It is spent for services and education of dentists on dealing with and teaching how to deal with disabled individuals.

Public Comment

Michael Spanier said that he worked in state government and was on the LFC. He referred to the large employer mandate of the PPACA and mentioned that there has been a one-year delay in that mandate to January 2015. He encouraged the committee to move forward with a letter to the LFC because the FY 2015 budget will be considered at the next session.

Through the implementation of Centennial Care, the PCO self-directed option will be eliminated in January 2014. It is an option that offers the very best balance of independence and support for the participants who will not succeed in going to an agency-based model. He expressed his concerns about the closed process that the Human Services Department (HSD) went about in making the decision. He encouraged the committee to invite Secretary of Human Services Sidonie Squier to a future hearing to further discuss the issue.

In response to questions from committee members about the cost of the PCO versus other relative costs, Mr. Spanier said he would get specific information on costs and participation to the committee so that Mr. Hely can disseminate it to the members for productive discourse on the issue.

On a personal note, Mr. Spanier honored the Granite Mountain Hotshots and sent his thoughts to their friends and families for the courageous work they do.

Ms. Otero-Hatanaka commented on the PCO program and said there are many people with developmental disabilities who are on the waiting list for Medicaid services and may be getting services through the PCO program. The developmental disability Medicaid program, as well as the families, are excluded from Centennial Care at the current time, although the long-term plan of the HSD is to include them at some point.

Mike Kivitz, president and CEO of Adelante Development Center, Inc., wanted the committee members to know of the ongoing and growing crisis in the developmental disability arena. The state is doing something very ambitious in trying to change four major systems at the same time: the Medicaid waiver standards, the way people are evaluated for what service package they will get, what the rates are and what service packages people are then eligible for. The state has been working on this for two years, but is unprepared to approve budgets, and so organizations such as his are operating without assigned budgets. There is currently no way to get the extra care for those few individuals who have high needs. There is no communication with the HSD and no one can give the long-time providers information.

Daniel Weeks said that he was here on behalf of himself. In the last couple of years, he has had the opportunity to help some folks and their friends and families who have had to go through the conservator process, and he has observed that there is not a lot of focus on the family, even though there is a lot of focus on protection of the elders. But the family involvement is not focused on enough. The process needs more transparency and fiduciary oversight and safeguards with respect to the actions of the conservators themselves and provisions for elimination of some obvious conflicts of interest with respect to the action of the conservator or guardian. He said that there is a memorial being prepared, and the committee will receive more information as the memorial study proceeds. In the meantime, he urged the committee not to forget about family involvement.

Emily Darnell Nuñez said that early childhood programs are finally doing some good for young children, but there is still a need for regulations, dialogue and communications. She suggested that the memorial will help iron out some of the issues going on with the elderly and the community. The paradigm in the state needs to shift about exploitation and the need to identify how to support families who are the ones better able to take care of elderly family members. If a guardianship or conservatorship needs to be in place, nothing should change about family relationships. It is heartbreaking for those involved when the protected person is being abused and exploited and does not get to see or be near family.

Medical-Legal Partnerships

Yael Cannon, Esq., assistant professor of law, UNM School of Law, and Ellen Leitzer, Esq., executive director, Senior Citizens' Law Office (SCLO), discussed medical-legal partnerships. Professor Cannon introduced the new dean of the New Mexico School of Law, David Herring. As background, Professor Cannon said she taught for three years at American University in a program serving low-income people in Washington, DC, with disabilities and special health care needs, particularly children. Prior to that, she worked on children's legal

issues at the National Medical Center in Washington, DC. She spoke from a presentation regarding the UNM Medical-Legal Alliance.

Ms. Leitzer read from her letter to the committee for her testimony on medical-legal partnerships.

Professor Cannon added that the school performs legal services on behalf of children, especially those with health care needs, and collaborates with the various health care professionals, which is the best model for delivery of services. The school is beginning to explore partnerships with different foundations, such as Kellogg, for how to reach other parts of the state. With technology and partners in communities and on the ground, an ideal would be to have a pilot project in the north, one in the south and one in collaboration with the tribes.

One committee member pointed out that the funding was originally at \$6 million and is now at \$1.2 million, yet the need throughout the state continues. There is the need to work collaboratively to get adequate funding.

Professor Cannon said that being creative about tapping into possible PPACA funding is something that medical partnerships are looking at throughout the country for bringing services to preventive care. She spoke about a woman with a hearing impairment who has borderline cognitive disabilities and is very difficult to treat. The UNM School of Law has been helping her to get family legal guardianship, even in adulthood.

Ms. Leitzer responded to a committee member regarding physician-ordered treatment limitations and end-of-life treatments and said she would like to partner with the committee to look at those policies.

Elder Abuse and Exploitation — SCLO

Marsha Shasteen, SCLO staff attorney, Gregory MacKenzie, attorney at law, and Darryl Millet, attorney at law, discussed elder abuse and exploitation. Ms. Shasteen said that she is a staff attorney at the SCLO, which now has a new executive director, Ms. Leitzer. She addressed the committee using a handout that she had prepared.

Mr. MacKenzie said he has been practicing law for 20 years, spending the vast majority of his time litigating the questions of undue influence and exploitation and dealing with contested guardianships and conservatorships. He sees financial exploitation occur in transfers between family members, families as to strangers or third parties, and then fiduciaries. He referred to his handout for his testimony.

Mr. Millet explained he is an attorney in private practice in Albuquerque. A large part of his practice is devoted to conservatorship services for incapacitated persons due to dementia, injury or some other form of disability that makes it impossible for people to take care of their

own money and property and to be protected from those who would take advantage of them. He spoke from his outline of testimony and reviewed some cases with which he has dealt.

The SCLO is seeking statutory recognition for these problems that would give it a tool to deal with the problem. Mr. MacKenzie said it would be helpful if there were a statute that said a person trying to commit undue influence is liable for the attorney fees of the person who brought the claim.

Ms. Shasteen confirmed that it is difficult for someone to think of retaining a lawyer after all of the person's money has been stolen. She has looked at statutes across the country for model language. In her view, California goes so far as to discourage people from feeling comfortable in doing transactions. Disability Rights New Mexico is a group to which the SCLO intends to contact. Every day, inherent in the SCLO's work, there is the tension of having to balance protection of the elderly against the freedom of the elderly. SCLO does not want to take away from people the dignity of being able to take a risk so long as it is within a reasonable realm.

Mr. MacKenzie added that a mechanism is needed for a restraining order to automatically freeze assets because, in many cases, at the end of the lawsuit the assets are gone.

Mr. Millet said he would work with the LCS on crafting language that provides protection without undue interference. Once the simplest possible statute is approved, it can be tweaked throughout the years when additional issues are discovered.

A legislator suggested that it might be faster to go to the New Mexico Supreme Court and ask for a civil procedure where a protective order can be filed at the beginning of a case. Without a message from the Governor's Office, the legislature cannot introduce a bill at the upcoming session, which will give it two years to get the necessary groups behind this. Another suggestion was to get on the agenda of the Courts, Corrections and Justice Committee right away. The more interim committees that endorse a bill, the better. The Office of the Attorney General (OAG) also should be on board.

Medicaid Fraud and Elder Abuse Unit; Hate Crimes Against Elders

Maria Griego, program evaluator, LFC, Jody Curran, director, Medicaid Fraud and Elder Abuse Division, OAG, Dave Pederson, general counsel, OAG, Joan Gilewski, nurse investigator, OAG, and Kathleen Hart, director, Adult Protective Services Division, Aging and Long-Term Services Department, spoke about the Medicaid Fraud and Elder Abuse Unit and hate crimes against elders.

Ms. Griego referred to a report published in July 2011 by the LFC. She spoke from the report and focused her comments on a progress report, updated the findings of the evaluation and provided the current status of the situation for evaluation titled Medicaid Fraud, Waste and Abuse Control.

Mr. Curran said that the Medicaid Fraud Control Unit investigates and prosecutes three broad areas of violations of the law: Medicaid fraud in the criminal context, such as a doctor, dentist or nurse who is providing services; Medicaid fraud civil, which is basically criminal without the criminal intent aspect; and resident abuse, neglect and exploitation. Those cases are prosecuted under a general criminal statute that is available to the OAG and all of the local district attorneys. In addition to being charged with that investigation prosecution, all 13 judicial districts investigate and prosecute under this statute. Communication with the HSD is essential to the OAG's success and is required by the Code of Federal Regulations (CFR). In order to receive Medicaid money in New Mexico, the OAG is required to work, cooperate and exchange information with the HSD. He and his staff meet to discuss critical issues once a month to improve the flow of information and quality of referrals.

Mr. Pederson said he is a criminal lawyer and has been a prosecutor and defense attorney for his entire career. He said he was here to talk about hate crimes against the elderly. This past session, SB 229 was introduced and would have reinstated the previous sentencing enhancement, the old-age enhancement as it was called in 1980 when it was first created. Mr. Pederson gave background on development of the old-age enhancement statute.

Representative Madalena acknowledged and introduced Gino Rinaldi, secretary of aging and long-term services.

Ms. Gilewski explained that she is a registered nurse and works for Mr. Curran in the OAG investigating abuse, neglect and exploitation cases. She is on the front line for investigation, training and outreach in adult protection services.

Ms. Hart yielded the floor to Secretary Rinaldi, who explained that his department investigates approximately 6,000 cases of neglect, exploitation and abuse each year. The majority of cases are neglect of adults.

One committee member pointed out that the HSD as an agency is too big and has too many functions to be managed out of one place and asked if the OAG is able to form an opinion, given what is known about it.

Attorney General Gary King commented that the current cabinet positions go back to the mid-1970s. There has always been an issue of how to combine things so that they can be well-managed, and there are management tools that help to do that. Interagency cooperation is important among agencies to help overcome these things. In modern times, it would be difficult to divide those departments up without changing the overall substance of government. Even though it is a fascinating idea, the legislature would have a difficult time reorganizing that, especially working without the governor and the executive. It is more a matter of trying to find efficient and economical ways to manage what is being managed rather than changing the structure.

Charles Sallee, deputy director of the LFC, said that something the legislature has looked at for the past couple of years and should continue to look at is strengthening the inspector general functions that exist throughout state government as a way to make sure that the largest departments are operating in the most efficient and effective way. Ms. Griego's team identified the Inspector General's Office at the HSD as being subsumed and is now reporting to a deputy secretary. The office has not been engaged in overseeing Medicaid fraud or integrity or how the HSD's Medical Assistance Division is overseeing managed care. That is a missed opportunity that should be revisited to make the department a more independent reporting structure.

Public Comment

Léonie Rosenstiel, M.P.H., a responsible guardianship advocate, submitted a letter from her testimony on elder abuse and guardianship matters before the Disabilities Concerns Subcommittee on November 9, 2012. She said the problems are coming from another direction as well: lack of oversight of appointed guardians who are appointed by the court. The process and proceedings are sequestered and not released to the public. The families may even be barred from seeing the person under the guardianship. She cited cases where a developmentally disabled person whose appointed guardian looted the trust fund and left the person destitute. These things happen to people who are not able to communicate effectively or think sequentially; they are being taken advantage of by family members and now the state, with no process in place or a provision in the law for guardians. She recommended that the secrecy be stopped so that family members can go to court and get reports on the finances and the situation. A person needs to be protected against possible exploitation before and after a guardianship is declared.

Marsha Southwick said she is an advocate for elder civil rights and runs a web site for people concerned about guardianship. The U.S. Government Accountability Office reports many cases where people's rights to their own money is handed over to someone else. If there is no accountability, there is no recordkeeping. She became involved in this enterprise because she has a friend in New Mexico who had \$2 million spent in two years, even though his care was not that great. The family cannot find out where the money went. There is the need to think about the potential for abuse when removing an elder's civil rights to money, freedom and legal representation.

Alleged Behavioral Health Provider Fraud

Secretary Squier and Diana McWilliams, executive director, Interagency Behavioral Health Purchasing Collaborative, discussed "credible allegations of fraud" that the HSD made against 15 behavioral health provider agencies pursuant to federal regulations. Secretary Squier explained that because of a new process in the HSD system, information on irregular types of billings from providers that had not previously been available started showing up. In addition, Ms. McWilliams and Secretary Squier stated that several whistleblower allegations were made against behavioral health provider agencies. With that information, the HSD hired an independent firm to audit 15 providers and all 15 failed the audit. Information was delivered to the OAG with the HSD's credible allegations of fraud. Secretary Squier stated that the credible allegations of fraud involved over \$36 million in payments to the provider agencies and that she

had no discretion but to hand over the credible allegations of fraud to the OAG. Upon receipt of the HSD's credible allegations of fraud, the OAG decided to make an investigation into the matter. Secretary Squier said that she did not know when the OAG would begin its investigation. Secretary Squier stated that she did not have the authority to disclose the audit findings, as they were now the subject of a criminal investigation and therefore not subject to the state Inspection of Public Records Act. Several handouts regarding the investigations were provided to committee members.

In response to several comments and questions from the committee members, Ms. McWilliams explained the methodology used in the process of meetings and regarding the findings.

Attorney General King also spoke about ways to work with the providers. There is guidance in the CFR regarding credible allegations of fraud, and there are limitations with what can be shared.

A member indicated that he thought it was inappropriate that an emergency procurement process, which circumvented Procurement Code provisions, was used by the HSD in obtaining the services of Public Consulting Group (PCG), the Massachusetts firm that performed the audit pursuant to the results of which the HSD made the credible allegations of fraud, and the Arizona provider agencies with which the HSD has contracted to manage provider agencies under investigation.

A member questioned the statistical extrapolation methodology that PCG used to determine the amount of payments that the provider agencies might owe with such a small sample of claims. Secretary Squier stated that the CMS usually accepts a sample of 50 claims, and the federal Department of Health and Human Services' Office of the Inspector General accepts 100 claims as a sample size, but the HSD used a larger sample size of 150 claims.

Ms. McWilliams stated that, even after ruling out technical errors, the error rates were well over those rates established by federal guidelines. Some of the provider agencies had error rates of 25%.

Another member stated that providers are innocent until proven guilty of fraud and that Secretary Squier's assertion that the 15 entities against which a credible allegation of fraud had been made were guilty of "egregious fraud" was inappropriate and may subject the HSD to defamation suits.

Following questions from the committee members and responses from the HSD representatives, Representative Madalena noted for the record that Secretary Squier was increasingly disrespectful to the committee members and had left the room. It was recommended that the providers be invited to an upcoming Behavioral Health Subcommittee meeting.

The meeting adjourned at 7:45 p.m.